

On page 27, line 7, increase the amount by \$2,468,000,000.

On page 27, line 8, increase the amount by \$2,468,000,000.

Mr. KYL. Mr. President, this amendment is a reprise of what we did last year in offering to reform the estate tax, sometimes referred to as the death tax.

Now, in the budget itself, and in an amendment that has been offered by the other side, there is a provision to allow the death tax to be changed from the current law to a top rate of 45 percent and an exempted amount of \$3.5 million, and there are some other features. My amendment, as with the proposal that had significant support last year, would reduce that top rate to no higher than 35 percent so that if you had more than one rate, at least the top rate could not exceed 35 percent, and both of the two spouses would have a \$5 million exempted amount before the estate tax would kick in.

In addition, this provides for a step-up in the basis of the property. It would enable the estate tax to be paid over the current period of time, and the amounts of money in the exempted amount, or unified credit of the estate gift tax, would be indexed for inflation.

Now, the reason for my amendment is, I think most agree even in this body, either allowing the estate tax to continue under current law—getting up to a high rate of 55 percent and an exempted amount of either \$2 million or \$1 million, probably \$1 million—or the proposal of the Democratic chairman of the committee would result in a continued unfair burden on primarily America's small businesses and farms, but, in any event, anyone subject to the potential liability of estate tax for which there is a tremendous amount of money spent in attempting to get around the obligations of the tax or to plan against its eventual required payments.

As a result, we look for ways to further reform the estate tax so that burden would be limited to only a few estates—the very highest estates—and that most people without a huge estate would not have the burden of trying to plan around it—to buy expensive insurance and hire lawyers and accountants and estate planners and the like.

The object, in other words, is not simply to limit the estate tax liability but provide some certainty in the Tax Code so that most people realize, as their homes have gotten more valuable simply because of the increased value with inflation, and as their businesses have accumulated some capital wealth even though it may not be disposable in the sense of liquid income, they are not going to have to worry that their estate is going to be subject to a tax and so they are not going to have to worry about spending this money to deal with the tax.

That is why we need to increase the total for a couple that would be exempted from the tax to \$10 million and provide that the upper rate, if that rate

kicks in, could be no higher than 35 percent. Above that, you are going to find people feeling that they have to try to prepare for or to get around the payment of the tax. And the irony is, Mr. President, those we are most concerned about really don't have the assets to try to spend a lot of money, whereas those who have enormous wealth can hire all the accountants, estate planners, and lawyers they want and buy insurance so that the ultimate impact of the tax does not hit them.

Last year, when we proposed this same proposal of the 35-percent highest rate or an amount of \$5 million exempted for both spouses in a motion to instruct conferees, 56 Senators, obviously both Democrats and Republicans, voted for that motion to instruct. Now, it was never carried out, but I think it demonstrates the will of this body that we want to have some reform that is more realistic and that exempts more estates from the payment of the tax and the consideration of the tax.

According to the Joint Tax Committee, in the tax year 2011, 131,000 estates alone will be subject to the estate tax—131,000. Mr. President, that is too much of a burden on too many people in this country who are not extremely wealthy. By 2015, that number goes up to 177,000 estates. The advantage of my amendment is that it would protect approximately 119,200 family businesses and family farms from the estate tax each year. It would dramatically reduce the number of estates that have to worry about paying the tax.

If we fail to act, in other words, about 131,000 families and family businesses and farms will be subjected to the tax in the year 2011 and thereafter. Under our proposal, we would, according to the Joint Committee on Taxation, reduce the impact of the tax so that only 11,800 estates would be required to file estate tax returns each year, if the exemption is set at \$5 million each. So, that is a huge change. It is necessary to protect the folks I think everybody in this body would like to protect from having to worry about the estate tax.

Now, it is interesting that when public opinion surveys ask people what they think about the tax, almost uniformly the results come back that the majority of Americans believe the estate tax is unfair and it ought to be eliminated. I remember a Gallup poll, now 3 or 4 years old, that said 60 percent of Americans believed it should be repealed. That is my preference, to repeal it. We haven't been able to get enough votes in this body to repeal it, but that is where the American people think it should be.

Interestingly, there was a survey conducted after the last Presidential election, and people who supported both Senator KERRY and President Bush were asked what they thought about the estate tax. The interesting thing is that while 70-some percent of the people who voted said they thought the tax should be repealed, roughly 80-

some percent of the people who voted for President Bush thought it should be repealed and 60-some percent of the people who voted for Senator KERRY thought it should be repealed.

So this is not a partisan matter among the American people. They believe, whether they supported Senator KERRY or President Bush in the last Presidential election, that the estate tax should be repealed. I daresay surveys even now, to this time, demonstrate the American public opinion remains the same. The interesting thing is even those who understand they will never be subject to the tax because their incomes are simply not such that they will accumulate the wealth necessary to have to worry about the tax believe the tax to be unfair and believe it should be repealed.

But even if you leave aside the issue of the morality of the tax and people's understanding that it is not a fair tax, it hits people at the absolute worst time—when a loved one in their family has passed away and they are having to consider whether pieces of the business or farm may have to be sold off to pay the tax—they recognize that, at a minimum, it should be reformed and that is all we are trying to do.

For years, we have been trying to get a reform that basically accomplishes two objectives: It would increase the amount of the estate that is exempt from the tax so you don't have to worry about filing forms or having to try to plan around it; and for those who would still be subject to the tax above that amount, it would at least put a lid on it at a maximum of 35 percent.

Now, again, the numbers in the current law, if we don't do anything, go up to 55 percent. And under the proposal of the chairman of the committee on the other side of the aisle, that would be reduced to 45 percent. That is still way too high, and the exempted amount would be \$1 million, which is way too low. Because of inflation today, there are a lot of homes that have a value of over \$1 million, especially in places such as California, New York, and some other places. So, clearly, an amendment along the lines that I will be introducing to make room in the budget for this kind of reform is necessary.

I would like to make just about three other quick points.

Last year, even though the budget could accommodate estate tax reform, the majority did not bring a bill to the Senate. And despite my best efforts, it wasn't possible to get anybody to allow consideration of a bill to reform the estate tax. As a result, in the Finance Committee at the end of last year, I asked that the chairman hold hearings and seek to have a markup this spring so we could actually pass a bill and not simply deal with it in the budget that we pass each year.

The American people need to understand what is really going on. Each year we pass a budget that, theoretically, allows for a reform of the estate